



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/956,980	09/21/2001	Ashley I. Bush	0609.4550001/JAG/FRC	6687

26111 7590 06/19/2002

STERNE, KESSLER, GOLDSTEIN & FOX PLLC  
1100 NEW YORK AVENUE, N.W., SUITE 600  
WASHINGTON, DC 20005-3934

EXAMINER

WEDDINGTON, KEVIN E

ART UNIT PAPER NUMBER

1614

DATE MAILED: 06/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/956,980

Applicant(s)

Bush et al.

Examiner  
Kevin E. Weddington

Art Unit  
1614



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Apr 3, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 10-15, 25-30, 40-45, and 55-57 is/are pending in the application.
- 4a) Of the above, claim(s) 13-15, 28-30, 43-45, and 55-57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-12, 25-27, and 40-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 7
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 1614

Claims 10-15, 25-30, 40-45 and 55-57 are presented for examination.

Applicants' preliminary amendment filed September 21, 2001 and the information disclosure statement filed March 5, 2002 have been received and entered.

Applicants' election filed April 3, 2002 in response to the restriction requirement of February 20, 2002 has been received and entered. The applicants are elected the invention described in claims 10-12, 25-27 and 40-42 (Group I) without traverse.

Claims 13-15, 28-30, 43-45 and 55-57 are withdrawn from consideration as being drawn to the non-elected invention (37 CFR 1.142(b)).

***Claim Rejections - 35 U.S.C. § 112***

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 is rendered vague and indefinite by the phrase "or a hydrophobic derivative thereof", which fails to make it clear what is meant by this phrase. Are these hydrophobic derivatives derived from bathocuproine? Or the hydrophobic derivatives separate compounds?

Art Unit: 1614

***Claim Rejections - 35 U.S.C. § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 10-12, 25-27 and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over WIPO (AO2) in view of Gerolymatos (AB2).

WIPO, hereby known as Choi et al., teaches metal chelators to treat neurotoxic injuries, such as neurodegenerative disorders. Note page 2 discloses the neurodegenerative disorders, such as Alzheimer's disease. Page 2, lines 27-35 also teach the other metal chelators, such as EGTA, TPEN and TSQ.

Art Unit: 1614


The instant invention differs from the cited reference in that the cited reference does not teach the applicants' preferred metal chelator, bathocuproine. However, one skilled in the art would have been highly motivated to substitute one metal chelator for another metal chelator that possess the same activity to treat neurodegenerative disorders in the absence of evidence to the contrary.

The instant invention differs from the cited reference in that the cited reference does not teach the addition of clioquinol with the metal chelators to treat Alzheimer's disease. However, the secondary reference, Gerolymatos, teach clioquinol as a well-known agent to combine the two individual anti-amyloidosis (Alzheimer's disease) agents into a single composition and achieve the same results (an additive effect) in the absence of evidence to the contrary.

Claims 10-12, 25-27 and 40-42 are not allowed.

The reference listed on the enclosed PTO-892 is cited to show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner K. Weddington whose telephone number is (703) 308-1235.

  
**Kevin E. Weddington**  
**Primary Examiner**  
**Art Unit 1614**

K. Weddington

June 17, 2002